

Matthew L. Blomstedt, Ph.D.
Commissioner of Education
301 Centennial Mall South - 6th Floor
P.O. Box 94933
Lincoln, NE 68509-4933

Petitioner,

vs.

Becky Kugler
1220 Edgewood Blvd.
Papillion, NE 68046,

Respondent.

N.P.P.C. Case No. 15-16
Case No. 15020

Findings of Fact, Conclusions of Law, And Recommendation Of the Commission

I. STATEMENT OF THE CASE

This case commenced with the filing of a Petition on October 20, 2015, by Matthew L. Blomstedt, Commissioner of Education, Department of Education, State of Nebraska, hereinafter referred to as “Petitioner.” The Petition was filed against Becky Kugler, hereinafter referred to as “Respondent.” The Petitioner alleges certain acts of conduct by the Respondent in violation of Neb. Rev. Stat. § 79-866(2) (Reissue 2008); Title 92, *Nebraska Administrative Code*, Chapter 27, Section 004.02C (effective date: November 12, 2003); Section 004.02H (same effective date); Section 004.03B (same effective date); Section 004.03C (same effective date); Section 004.03D (same effective date); and Section 004.04F (same effective date).

On October 26, 2015, the Petition, Notice of Right to Submit an Answer, and a copy of Title 95, Nebraska Administrative Code, Chapter 1 (effective date: October 30, 1993), were served upon Respondent by certified mail, return receipt requested.

On October 13, 2015, the Respondent, through her attorney, Rick G. Wade, filed an Answer to the Petition admitting the allegations in paragraphs 1, 2, 3, and 4 of the Petition and denying paragraphs 5 and 6 of the Petition and asking that the Commission dismiss the Petition.

On November 18, 2015, Kathi Vontz, Clerk of the Commission, filed a Notice of Hearing which was sent to the Respondent and the Respondent's attorney, Rick G. Wade, by U.S. Mail, postage prepaid, and delivered by hand to the Petitioner's general counsel. The Notice of Hearing advised that a public hearing on the Petition would be held on December 5, 2015, commencing at approximately 10:15 a.m., or immediately following the preceding hearing, in the State Board Hearing Room, 6th Floor, Nebraska State Office Building, 301 Centennial Mall South, Lincoln, Nebraska. The Notice further advised that the hearing would be held before a designated hearing committee of the Commission, with Jeffery R. Kirkpatrick serving as legal counsel to advise the Chair in the performance of his duties.

The Petition and Answer came on for hearing at the above time and place before a Hearing Panel of the Commission consisting of Commission Members: Sarah Brown, Michael Cobelens, Vernon Fisher, Leslie Kalina, Kevin Pettigrew, Andrew Rikli, Darolyn Seay, and John Skretta. Commissioner Brown served as Chairperson. The proceedings were reported by Linda Rohman of General Reporting Services, Lincoln, Nebraska. The Petitioner appeared by Brian L. Halstead, General Counsel. The Respondent appeared with her attorney, Rick G. Wade. Exhibits and testimony were received in evidence and the Petitioner's general counsel and the Respondent's attorney made closing arguments.

Thereupon the Commission deliberated based on the record before it, and makes the following Findings of Fact, Conclusions of Law, and Order:

II. FINDINGS OF FACT

1. The Petitioner, Matthew L. Blomstedt, is the Commissioner of Education for the State of Nebraska.
2. The Respondent is Becky Kugler, 1220 Edgewood Blvd., Papillion, NE 68046.
3. The Respondent holds a public Nebraska Professional Teaching certificate number 2013004128, endorsed in Elementary Education K-6 and Special Education K-12, with an expiration date of August 31, 2023.
4. The Respondent was employed by the Westside Community Schools as a special education teacher beginning with the 2008-2009 school year until she retired at the end of the 2014-2015 school year.
5. On January 29, 2015, the Respondent administered the 4th grade NeSA-Writing Assessment to two special education students in violation of NeSA testing protocols, including writing on the students' rough drafts, and, on January 30, 2015, admitted to administrators of the school district that she had violated testing protocols and had done so in previous school years.

III. CONCLUSIONS OF LAW

1. The Commission has jurisdiction in this case, and all proceedings have been in accordance with applicable Constitutional, Statutory, and Regulatory requirements.

2. The Petitioner has further proven by a preponderance of the evidence that the Respondent violated Section 004.02C (effective date: November 12, 2003) of the Title 92, *Nebraska Administrative Code*, Chapter 27, which states, "the educator: Shall not use coercive means, or promise or provide special treatment to students, colleagues, school patrons, or school board members in order to influence professional decisions."

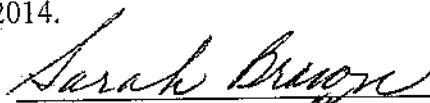
3. The Petitioner has further proven by a preponderance of the evidence that the Respondent violated Section 004.03D (same effective date) of Title 92, *Nebraska Administrative Code*, Chapter 27, which states, "the educator: Shall conduct professional educational activities in accordance with sound educational practices that are in the best interest of the student."

4. The Petitioner has further proven by a preponderance of the evidence that the Respondent violated Section 004.04F (same effective date) of Title 92, *Nebraska Administrative Code*, Chapter 27, which states, "the educator: Shall, with reasonable diligence attend to the duties of his or her professional position."

V. RECOMMENDATION

Therefore, the Commission respectfully recommends to the State Board of Education with a 7-1 vote that the Respondent be issued a Public Reprimand.

Dated this 23rd day of December, 2014.



Sarah Brown, Chairperson
Hearing Committee

Nebraska Professional Practices Commission

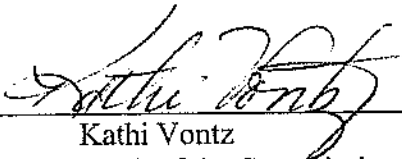
CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Findings of Fact, Conclusions of Law, and Recommendation for Case No. 15-16 was served upon Respondent, Becky Kugler, by certified mail, and Respondent's attorney, Rick G. Wade by U.S. Mail, postage prepaid, and hand delivered to Brian L. Halstead on this 23rd day of December, 2015, at the following addresses

Becky Kugler
Respondent
1220 Edgewood Blvd.
Papillion, NE 68046

Brian L. Halstead
Attorney for Petitioner
301 Centennial Mall South
Lincoln, NE 68509

Rick G Wade
Attorney for Respondent
605 South 14th Street, Suite 220
Lincoln, NE 68508



Kathi Vontz
Clerk of the Commission